

REPORT TO THE TWENTY-FOURTH LEGISLATURE
STATE OF HAWAII
2008

PURSUANT TO SECTION 31 OF ACT 213, SLH 2007, REQUIRING THE
DEPARTMENT OF HEALTH TO INCREASE THE ANNUAL PENSIONS FOR THE
RESIDENTS OF KALAUPAPA SETTLEMENT

PREPARED BY:

STATE OF HAWAII
DEPARTMENT OF HEALTH
OCTOBER 2007

EXECUTIVE SUMMARY

In accordance with Section 31 of Act 213, SLH 2007 (Section 31), the Department of Health (DOH) is submitting a report to the 2008 Legislature on the implementation of pension increases for the residents of Kalaupapa who qualify for an appropriate increase.

Section 31 provided the DOH with additional general funds of \$4,243 for fiscal year (FY) 2007-2008 and \$2,709 for FY 2008-2009 to adjust the annual pensions for the residents of Kalaupapa settlement.

Section 31 stipulated that Kalaupapa pensioners receiving less than \$4,000 annually were to be granted a 5 percent increase in FY 2007-2008, and a 2.5 percent increase in FY 2008-2009. Pensioners receiving more than \$4,000 but less than \$5,000 annually were to be granted a 4 percent increase in FY 2007-2008 and a 2.5 percent increase in FY 2008-2009. Pensioners receiving \$5,000 or more annually were to be granted a 2.5 percent increase in FY 2007-2008 and a 2.5 percent increase in FY 2008-2009.

The Governor's Executive Memorandum 07-01, "FY 08 Budget Execution Policies and Instructions," stated that Section 31 was deemed defective, and that an opinion from the Department of Attorney General should be sought regarding the implementation of the Section.

The Department consulted with the Department of the Attorney General, and at the request of the Department of the Attorney General, the Director of Health formally requested that the Attorney General render an opinion on the legality of Section 31. To date, the Department has not received the opinion from the Attorney General and no action has been taken to increase the patients' pensions.

REPORT TO THE LEGISLATURE

IN COMPLIANCE WITH SECTION 31, ACT 213, SLH 2007

In accordance with Section 31 of Act 213, SLH 2007 Legislative Session, the Department of Health (DOH) is submitting a report to the 2008 Legislature on the implementation of pension increases for the residents of Kalaupapa who qualify for an appropriate increase.

Section 326-23, Hawaii Revised Statutes (HRS) provides for a pension for all patient employees or patient laborers at every facility maintained for the treatment and care of persons with Hansen's disease (i.e. Kalaupapa Settlement) upon retirement after twenty years or more service with the DOH. Section 326-23, HRS includes language on the calculation of pension benefits, but does not include language for adjustments or increases to those benefits. Kalaupapa patient employee pensioners, unlike State civil service retirees, do not receive an annual increase to their pension benefits to adjust for cost of living increases.

Section 31 provided the DOH with additional general funds of \$4,243 for FY 2007-2008 and \$2,709 for FY 2008-2009 to adjust the annual pensions for the residents of Kalaupapa settlement. Section 31 stipulated that Kalaupapa pensioners receiving less than \$4,000 annually were to be granted a 5 percent increase in FY 2007-2008, and a 2.5 percent increase in FY 2008-2009. Pensioners receiving more than \$4,000 but less than \$5,000 annually were to be granted a 4 percent increase in FY 2007-2008 and a 2.5 percent increase in FY 2008-2009. Pensioners receiving \$5,000 or more annually were to be granted a 2.5 percent increase in FY 2007-2008 and a 2.5 percent increase in FY 2008-2009.

With the passing of patients, the number of Kalaupapa patient employees receiving pensions declined to 20. Based on the criteria set by the legislature, five patient employee retirees would receive a 5 percent increase, eight would receive a 4 percent increase, and seven would receive a 2.5 percent increase in FY 2008. The increase to the pensions is estimated to cost \$3,222.80 in FY 2008 and \$5,566.10 in FY 2009. The estimated cost for the pension increases of FY 2008 is lower than originally anticipated due to patient deaths, while the cost for the FY 2009 increases is projected to be higher than was appropriated. The amount of funds appropriated for the FY 2009 pension increase does not appear to include the FY 2008 increase, which should have been included in the new pension amount for FY 2009.

To date, the pension increases have not been paid. The Governor's Executive Memorandum 07-01, "FY 08 Budget Execution Policies and Instructions," indicated that Section 31 was deemed defective, and that an opinion from the Department of the Attorney General be sought regarding the implementation of the Section.

The Department consulted with the Department of the Attorney General, and at the request of the Department of the Attorney General, Dr. Chiyome Fukino, Director of Health, formally requested that Attorney General, Mark Bennett, render an opinion on the legality of Section 31. To date, the Department has not received the opinion and no action has been taken to increase the patients' pensions.